

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus

Bankruptcy Judge

Modesto, California

July 26, 2000 at 3:00 p.m.

1. 97-95701-A-13 LARUE & SANDRA KINERSON
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF EDUCATIONAL CREDIT
MANAGEMENT CORPORATION
(FORMERLY TGA)
6/20/00 [34]

Tentative Ruling: The objection is overruled. The last date to file a timely proof of claim by a nongovernmental entity was May 12, 1998. The proof of claim was filed on May 18, 1998. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990). While the debtors attempt to argue that the claimant is a governmental entity and therefore had until June 3, 1998, to file a proof of claim, there is no evidence that Educational Credit Management Corporation is a governmental entity. As its name indicates, it is a corporation nor a governmental entity.

The argument that because the bar date for governmental entities had not passed when the Notice of Filed Claims was served by the trustee is factually wrong. The bar date for governmental entities was June 3, 1998. The Notice of Filed Claims was filed and served on September 10, 1998 - after the expiration of both deadlines for proofs of claim. Therefore, when counsel reviewed the Notice of Filed Claims, counsel knew or should have known that the holder of the claim, whether a governmental entity or not, had not filed a proof of claim. Therefore, counsel could have filed a timely claim on the creditor's behalf pursuant to Fed.R.Bankr.P. 3004 and General Order 97-02, ¶ 6(f).

However, the Ninth Circuit recognizes that a claim may be presented informally. An informal proof of claim "must state an explicit demand showing the nature and amount of the claim against the estate and evidence an intent to hold the debtor liable." Sambo's Restaurants, Inc. v. Wheller (In re Sambo's Restaurants, Inc.), 754 F.2d 811, 815 (9th Cir. 1985). Also see In re Franciscan Vineyards, Inc., 597 F.2d 181 (9th Cir. 1979), *cert. denied*, 445 U.S. 915, 100 S.Ct. 1274, 63 L.Ed.2d 598 (1980). A proof of claim might consist of a pleading such as a motion for relief from stay, an objection to confirmation, or even a letter sent to the debtor or debtor's counsel. See e.g., Matter of

Pizza of Hawaii, Inc., 761 F.2d 1374, 1381 (9th Cir. 1985) (motion for relief from automatic stay considered an informal proof of claim). Any writing communicated to the debtor before the expiration of the claims' bar date that clearly summarizes the creditor's claim and makes clear that it intends to enforce that claim against the debtor can suffice as an informal proof of claim. A subsequently filed and tardy formal proof of claim is considered an amendment of the timely filed informal proof of claim. "A creditor is permitted to file a proof of claim after the bar date when the proof of claim is an amendment to a timely filed claim. . . ." In re Osborne, 159 B.R. 570, 573 (Bankr. C.D. Cal. 1993), *affirmed*, 167 B.R. 698 (B.A.P. 9th Cir. 1994), *affirmed*, 76 F.3d 306 (9th Cir. 1996).

Here, on March 27, 1998, the creditor's predecessor sent a letter to the debtor. That letter made clear that the creditor expected its claim to be paid and disclosed the essentials of the claim - its amount, its nondischargeability, the loan number, and the original lender. This letter is a timely informal proof of claim. The formal proof of claim is a timely amendment of the informal proof of claim.

2. 98-94211-A-13 RALPH & CAROL BOYLES
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF NORWEST FINANCIAL
6/21/00 [16]

Tentative Ruling: The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was January 5, 1999. The proof of claim was filed on November 9, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

The last day for the debtor to file a claim on behalf of the creditor was May 26, 1999. Fed.R.Bankr.P. 3004 and General Order 97-02, ¶ 6(f). The claim filed by the debtors on November 9, 1999 is, therefore, untimely.

However, the Ninth Circuit recognizes that a claim may be presented informally. An informal proof of claim "must state an explicit demand showing the nature and amount of the claim against the estate and evidence an intent to hold the debtor liable." Sambo's Restaurants, Inc. v. Wheller (In re Sambo's Restaurants, Inc.), 754 F.2d 811, 815 (9th Cir. 1985). Also see In re Franciscan Vineyards, Inc., 597 F.2d 181 (9th Cir. 1979), *cert. denied*, 445 U.S. 915, 100 S.Ct. 1274, 63 L.Ed.2d 598 (1980). A proof of claim might consist of a pleading such as a motion for relief from stay, an objection to confirmation, or even a letter sent to the debtor or debtor's counsel. See e.g., Matter of Pizza of Hawaii, Inc., 761 F.2d 1374, 1381 (9th Cir. 1985) (motion for relief from automatic stay considered an informal proof of claim). Any writing communicated to the debtor before the expiration of the claims'

bar date that clearly summarizes the creditor's claim and makes clear that it intends to enforce that claim against the debtor can suffice as an informal proof of claim. A subsequently filed and tardy formal proof of claim is considered an amendment of the timely filed informal proof of claim. "A creditor is permitted to file a proof of claim after the bar date when the proof of claim is an amendment to a timely filed claim. . . ." In re Osborne, 159 B.R. 570, 573 (Bankr. C.D. Cal. 1993), *affirmed*, 167 B.R. 698 (B.A.P. 9th Cir. 1994), *affirmed*, 76 F.3d 306 (9th Cir. 1996).

Here, on or about September 9, 1998, the creditor sent a payment coupon to the debtor. That coupon makes it clear that the creditor expected its claim to be paid and disclosed the essentials of the claim - the pre-petition arrearage, the regular installment amount, the account number, and the original lender. This payment coupon is a timely informal proof of claim. The problem is that the creditor has not amended the informal proof of claim with a timely formal proof of claim. While the debtor filed a formal proof of claim, judged on its own merits, it was untimely. Nor is the court aware of any authority that permits the debtor to amend a timely claim, formal or informal. Rule 3004 permits the debtor to amend a proof of claim but does not authorize an amendment of a proof of claim filed by the creditor.

Rule 3004 gave the debtor a deadline to file a proof of claim on behalf of the creditor. The court's general order extended that deadline. The debtor's attorney was advised by the trustee that the creditor had not filed a proof of claim. The debtor had 90 days from that notice to file a proof of claim. Despite Rule 3004, despite a lengthy extension, despite the notice from the trustee, the debtor failed to file a timely proof of claim on behalf of the creditor.

3. 98-91812-A-13 JAMES & MYRNA HERRERA HEARING ON TRUSTEE'S
RDG #985 OBJECTION TO ALLOWANCE OF
 CLAIM OF FORD MOTOR CREDIT
 6/19/00 [50]

Tentative Ruling: The objection is overruled. The last date to file a timely proof of claim by a nongovernmental entity was August 18, 1998. The creditor did not file a proof of claim. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

In this case, the creditor's claim is not merely late. The creditor did not file a proof of claim on its own behalf. While nothing in Fed.R.Bankr.P. 3002 requires a secured creditor to file a proof of claim, the standard plans in use by this court since 1996, clearly and unambiguously stated that no claim, including a secured claim, would be paid unless a timely proof of claim is filed. The necessity of a proof of claim cannot possibly be a surprise. The 1997 version of the plan

applicable to this case provided:

Creditors holding pre-bankruptcy claims will be paid only if they file timely proofs of claim. Notwithstanding Fed. R. Bankr. P. 3002(a), the holder of a secured claim shall file a timely proof of claim in accordance with Fed. R. Bankr. P. 3002(c) if the holder wishes to receive payments under the plan.

The debtor also had the opportunity to file claims on behalf of those creditors who did not file their own proof of claim. 11 U.S.C. § 502(c). Fed.R.Bankr.P. 3004 permits the debtor to file a claim on behalf of the creditor as early as the date first set for the meeting of creditors but not later than 30 days after the expiration of the time for the creditor to file its own proof of claim. General Order 97-02 extends the latter deadline. At Paragraph 6(f), the General Order provides: "If a creditor fails to file a proof of claim within the time required by FRBP 3002(c) or section 502, the debtor or the Trustee may (but are not required to) file a proof of claim on behalf of the creditor pursuant to FRBP 3004. The time for the filing of such a claim is extended to 90 days after service on the debtor or his counsel of the Notice of Filed Claims.

The Notice of Filed Claims was filed and served on December 22, 1998. Therefore, the extended deadline to file a claim on behalf of the creditor was March 22, 1999. The debtor filed the proof of claim on January 4, 2000. It is untimely and is disallowed.

4. 97-92514-A-13 JOHN F. CREDIFORD II & HEARING ON TRUSTEE'S
RDG #985 DENISE J. CREDIFORD OBJECTION TO ALLOWANCE OF
CLAIM OF THE FRANCHISE TAX
BOARD
6/22/00 [31]

Final Ruling: The movant or the objecting party has voluntarily dismissed the matter on calendar.

5. 98-96117-A-13 WENDELL & SHARON JOHNSON HEARING ON TRUSTEE'S
RDG #985 OBJECTION TO ALLOWANCE OF
CLAIM OF TOM WATSON,
TREASURER-TAX COLLECTOR,
STANISLAUS COUNTY
6/21/00 [20]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a governmental entity was June 7, 1999. The proof of claim was filed on September 28, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re

Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

6. 99-90018-A-13 TORIBIO & EVANGELINE CASTRO RDG #985 HEARING ON TRUSTEE'S OBJECTION TO ALLOWANCE OF CLAIM OF HEILIG-MEYERS FURNITURE 6/20/00 [28]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was May 4, 1999. The proof of claim was filed on October 4, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

7. 99-90022-A-13 JOHN & SUSAN VATER RDG #985 HEARING ON TRUSTEE'S OBJECTION TO ALLOWANCE OF CLAIM OF THE INTERNAL REVENUE SERVICE 6/19/00 [18]

Final Ruling: The movant or the objecting party has voluntarily dismissed the matter on calendar.

8. 98-95140-A-13 MIRL & LEONA MORSE RDG #985 HEARING ON TRUSTEE'S OBJECTION TO ALLOWANCE OF CLAIM OF NATIONAL CAPITAL MANAGEMENT, LLC, SUCCESSOR TO MAC TOOLS, INC. 6/19/00 [35]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was February 16, 1999. The proof of claim was filed on May 10, 1999, and again on June 3, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), both claims are disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428,

1432-33 (9th Cir. 1990).

9. 98-92145-A-13 ARON & DEBBIE CORNEJO
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF EDUCATIONAL CREDIT
MANAGEMENT CORPORATION
(FORMERLY TGA)
6/19/00 [16]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was September 8, 1998. The proof of claim was filed on September 25, 1998, and again on June 3, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), both claims are disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

10. 98-92451-A-13 HECTOR & TERESA CASTILLO
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF THE INTERNAL

REVENUE

SERVICE
6/22/00 [45]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a governmental entity was November 16, 1998. The proof of claim was filed on February 5, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

11. 99-91554-A-13 DAVID RICHARD SCHEIDT
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF WFS FINANCIAL,

INC.

6/22/00 [34]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was August

24, 1999. The proof of claim was filed on September 1, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

12. 98-91560-A-13 RAE MILLER
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF THE FRANCHISE TAX
BOARD
6/20/00 [19]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained.

The FTB did not file a proof of claim in this case. Instead, the debtor filed two proofs of claim on behalf of the FTB, one on May 27, 1999 and one on June 17, 1999. The former is for a total of \$572.92 (\$498.92 unsecured and \$74.00 priority) and the latter for \$74.00 priority. Neither proof of claim indicates that it amends or supercedes the other. Nothing is appended to the proofs of claim to indicate the relevant tax period or type. On June 25, 1999, counsel for the debtor filed a document entitled Withdrawal of Claim Filed for Franchise Tax Board, etc. It purports to withdraw "the claim" filed on behalf of the FTB because the FTB had filed its own proof of claim. This is puzzling for three reasons. First, it is unclear which proof of claim is being withdrawn. Second, the FTB has not filed a proof of claim. Third, the court is unaware of any authority permitting the debtor to withdraw a proof of claim. 11 U.S.C. §§ 501 & 502 and Fed.R.Bankr.P. 3004 do not give this authority to the debtor.

Therefore, the court concludes the withdrawal was ineffectual. Nonetheless, both claims are disallowed. The debtor had the opportunity to file claims on behalf of those creditors who did not file their own proof of claim. 11 U.S.C. § 502(c). Fed.R.Bankr.P. 3004 permits the debtor to file a claim on behalf of the creditor as early as the date first set for the meeting of creditors but not later than 30 days after the expiration of the time for the creditor to file its own proof of claim. General Order 97-02 extends the latter deadline. At Paragraph 6(f), the General Order provides: "If a creditor fails to file a proof of claim within the time required by FRBP 3002(c) or section 502, the debtor or the Trustee may (but are not required to) file a proof of claim on behalf of the creditor pursuant to FRBP 3004. The time for the filing of such a claim is extended to 90 days after service on the debtor or his counsel of the Notice of Filed Claims.

The Notice of Filed Claims was filed and served on November 18, 1998. Therefore, the extended deadline to file a claim on behalf of the creditor was February 16, 1999. The debtor filed the proofs of claim on

May 27, 1999 and June 17, 1999. Both are untimely and are disallowed.

13. 99-90762-A-13 KEITH & KRISTA BREAKFIELD
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF COLLEGIATE

FINANCIAL

GROUP
6/20/00 [25]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was June 29, 1999. The proof of claim was filed on August 30, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

14. 98-93566-A-13 STEPHEN & BETTY WALLINGTON HEARING ON TRUSTEE'S
RDG #985 OBJECTION TO ALLOWANCE OF
CLAIM OF THE FRANCHISE TAX
BOARD
6/19/00 [21]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a governmental entity was January 18, 1999. The proof of claim was filed on August 3, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

15. 98-91568-A-13 DIVINA C. PALAFOX HEARING ON TRUSTEE'S
RDG #985 OBJECTION TO ALLOWANCE OF
CLAIM OF THE FRANCHISE TAX
BOARD
6/20/00 [25]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a governmental entity was September 30, 1998. The proof of claim was filed on June 8, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

16. 99-91470-A-13 HERBERT S. HUNTER HEARING ON TRUSTEE'S
RDG #985 OBJECTION TO ALLOWANCE OF
CLAIM OF BAY VIEW BANK
6/19/00 [40]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was August 3, 1999. The proof of claim was filed on January 10, 2000. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

17. 98-92282-A-13 EARL & PATTIE BURTON
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF THE FRANCHISE TAX
BOARD

6/20/00 [20]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a governmental entity was November 3, 1998. The proof of claim was filed on May 20, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the claim is disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

18. 98-92697-A-13 STEVE & LINDA PEDEGO
RDG #985

HEARING ON TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM OF A.S.C.

6/20/00 [35]

Final Ruling: The creditor has failed to respond to the matter on calendar as is required by Local Rule 9014-1, Part II (c). Because it has come forward with no opposition, this matter is suitable for disposition without hearing. The objection is sustained. The last date to file a timely proof of claim by a nongovernmental entity was October 13, 1998. The proof of claim was filed on June 7, 1999 and again on June 14, 1999. Pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), claims are disallowed. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).